

**ADEPT**  
**Legal Commentaries**

Autumn-winter 2001

## **The activity of the Parliament of the Republic of Moldova in the autumn-winter session 2001**

January 15, 2002

Both the President of the country and the Chair of the Parliament have publicly evaluated the activity of the XVth legislature Parliament. The President expressed his satisfaction with the legislative body activity, which "started to meet the voters' expectations and recover its prestige which seemed to be lost forever". The official summary of the parliamentary session had already been made public. We intend to briefly review the most important legislation adopted by the Parliament in September - December 2001.

### **Fighting terrorism**

#### **1. Parliament Resolution on fighting terrorism.**

**ADEPT comment:** The Parliament convened on a session on September 27, 2001 immediately after terrorist attacks in the US. The Parliament adopted the said resolution, which was followed by a series of other laws.

**2. Law on Fighting Terrorism.** The law defines the legal and organizational framework for fighting terrorism in the Republic of Moldova; methods of coordinating the activity of bodies entitled to fight terrorism, central and local government, non-governmental organizations, persons holding high rank positions as well as individual citizens; as well as responsibilities and guarantees provided to individuals with regard to fighting terrorism.

**3. Law on Completing the Penal Code.** The Code was completed with Article 631, defining the offence of "funding and/or material support to terrorist acts". The sanction provided for this offence is pretty serious (from 10 to 25 years in prison and confiscation of assets).

**4. Law on the Ratification of the Resolution on Funding Anti-terror Center of the CIS** (signed in Minsk on November 30, 2000).

**5. Law on the Ratification of the Resolution on Anti-terror Center of the CIS** (signed in Minsk on December 1, 2000).

### **National security and rule of law**

#### **1. Law on Modification of Article 10 of the Law no. 190-XIII of July 19, 1994 on Petitioning.**

**ADEPT comment:** The law stipulates that local government may examine even anonymous petitions or the ones which fail to meet certain criteria, provided the said petitions include information pertaining to state security or public order.

#### **2. Law on Modification of Article 71 of the Penal Code.**

**ADEPT comment:** The law modifies the first paragraph of Article 71 of the Penal Code. According to the amendment, actions with malice aforethought; public instigation via mass media or e-mail to dissension, national severance, racial and religious hatred; humiliation of the national honor and dignity; as well as direct or indirect violation of citizens' rights, or favoring directly or indirectly citizens based on their nationality, race or religion - are sanctioned.

The official reason for the adoption of the said modifications was to bring in accordance domestic penal legislation with international treaties. Though, parliamentary opposition claims that the majority factions intend to use the provisions against undesirable opposition manifestations.

#### **3. Law on Modification and Completion of the Law no. 110-XIII of May 18, 1994 on Control upon Arm Possession.**

**ADEPT comment:** The Parliament of the XIIIth and XIVth legislature were characterized by the powerful lobby of the environmental-deputies who managed to promote the adoption of several laws entitling

environmental non-governmental organization to special rights, which today enable former deputies to freely operate.

The above mentioned law is an illustration of the powerful hunters' lobby, as the author of the initiative, communist deputy Iurie Cicinov, is the former Chair of the Hunters and Fishermen Association. This fact explains why the Law on the Arm Control was amended in such a way as to grant additional rights to the Hunters' and Fishermen Association, who currently are entitled to produce and sell hunting bullets and arms.

Lets hope that the hunters lobby will bring at least as many benefits as the environmentalists' did.

## **Judicial reform**

**1. Law on the Modification of Article 16 of the Law no. 514-XIII of July 6, 1995 on Court Organization and the Law on Enforcing Article 16 of the Law no. 514-XIII of July 6, 1995 on Court Organization.**

**ADEPT comment:** The said laws entitle the President of the Republic to appoint the Chairpersons and Vice-chairpersons of the courts for a 4 year term, at the recommendation of the Supreme Magistracy Council. The four-year term of the great majority of the Chairpersons and Vice-chairpersons of the courts and tribunals established on the soil of the Republic of Moldova expired. This allowed the president of the country to make some serious reshuffling by the end of 2001, thus replacing the Chair of the Court of Appeal, the majority of the Chairpersons of the tribunals and district courts, including that of the Chisinau Municipality. Despite the predictions of many analysts, the President didn't replace the Chair of the Economic Court of the Republic of Moldova. The latter was close to the former President Petru Lucinschi, and was frequently blamed for allowing the embezzlement of the state patrimony, for favoring private companies to the prejudice of public interests.

The nomination process was very peculiar - the Supreme Magistracy Council recommended 3-4 candidates to each of the vacant position, thus giving the President an even larger choice. It is worth mentioning that besides the persons who lost their job, associations of the judges as well as opposition political parties protested against the changes in the courts and tribunals' leadership.

Given the fact that the Steering Committee for the judicial and law reform in the Republic of Moldova resumed its activity at the end of 2001, as well as the fact that Parliament majority faction developed several draft laws aimed to revise the constitutional principles of judicial authority, one could expect that major and frequent events will take place in 2002 as far as the juridical reform is concerned. That is why we shall continuously monitor the process.

## **Fighting financial crime**

**1. Law on Fighting Money Laundering.**

**ADEPT comment:** There were several attempts to pass the said law by the previous Parliament legislatures, but all of them failed. There wasn't a consensus during the current Parliament debates either, as many deputies objected to the provisions included.

Nevertheless, the said law was voted by all the deputies, especially after it was insinuated that those not voting for the draft law were interested in preserving the uncertainty with regard to fighting money laundering in Moldova. Immediately after the adoption of the law, legislative branch was severely criticized on the grounds that the immediate effect of the adoption was the withdrawal of money from the bank accounts in private banks.

## **Human rights**

The Resolution of the Parliament on the approval of the Steering Committee for the elaboration and enforcement of the National Workplan on Human Rights and the Regulation on its activity.

**ADEPT comment:** This resolution is the first attempt to coordinate at the highest level the activities of the public officers and representatives of the civil society in view of observing and promoting human rights.

## Law making process

Law on the Parliament Legislation.

**ADEPT comment:** The said law was adopted at the end of the Parliament session and hasn't been enforced yet. Once promulgated, the law will have a very important role to play. It could act as a legal obstacle for lobby and promotion of group interests in the legislative body. In addition, the law would contribute to a better discipline of the deputies as it provides requirements for drafting and enforcing legal acts.

## Social security and Medicare

1. Law on the Partial Ratification of the Revised European Social Charter.

**ADEPT comment:** Initially many experts were skeptical about the possibility of the Charter ratification, given the high costs its enforcement will require and the state's lack of such funds. The experts, though, neglected two major aspects, namely:

Ratification of the Charter does not require immediate enforcement of its provisions, especially as Republic of Moldova fails to pay its membership fees in a series of international organizations, not to speak about the enforcement of an international treaty on its soil.

Governing party's commitment toward social policy and its readiness to pass any legislation even if there are no funds, just for the sake of "not losing the orientation".

2. Law on the Unemployment Fund of the Republic of Moldova.

**ADEPT comment:** See ADEPT comment of December 19, 2001 on the Parliament activity during December 3-14, 2001.

3. Law on Pension Recalculation.

**ADEPT comment:** See ADEPT commentary of November 14, 2001 on the Parliament activity during November 5 - 9, 2001.

4. Law on the Ratification of the International Labor Organization Convention no. 181 on the Private Employment Agencies and the Law on the Ratification of the International Labor Organization Convention no. 142 on the Vocational Training in the Human Resource Management.

5. Law on the Health Evaluation and Accreditation.

**ADEPT comment:** According to the respective law, health evaluation and accreditation are conducted based on the standards established by the Health Ministry, to determine the ability of the medical-sanitary and pharmacy units (regardless of the form of property, legal form, administrative subordination) to provide medical assistance to the population and meet the objectives specified in the Law on Healthcare, Law on Pharmaceutical Activity, Law on the Sanitary-Epidemiological Services to the Population, Law on the Obligatory Medical Assistance, Law on the Consumer Protection as well as other legal acts.

The main goal of the health evaluation and accreditation is to improve the quality of the services provided by the medical-sanitary and pharmaceutical units to the population.

6. Law on Completion of the Law no 933-XIV of April 14, 2000 on the Social Security of Certain Categories of the Population.

**ADEPT comment:** This law extends the categories of nominative compensations beneficiaries to the persons who during the Second World War worked behind the frontline and persons who were in Leningrad (Sankt-Petersburg) during the blockade.

7. Law on the Biological Security.

**ADEPT comment:** The law regulates activities related to acquiring, testing, use and sale of genetically modified organisms and the ones which might endanger human life or biological diversity development.

## **Finance, fiscal, economy and entrepreneurship**

### **1. Title V of the Fiscal Code.**

**ADEPT comment:** The above said law was adopted by the Parliament in the summer, however the President of the country refused to promulgate it, objecting that the law is too tough and under current circumstances such a restrictive law will hinder entrepreneurship and economic development. Deputies agreed with the great majority of the President's objections and diminished the quota of fines to be paid by the companies for violating the law.

However, many other rights of the financial and fiscal control bodies have been preserved. This might have an unexpected impact upon the enforcement of the law commencing July 1, 2002.

### **2. Law on Modification and Completion of the Law on Financial Institutions.**

**ADEPT comment:** See ADEPT commentary of November 14, 2001 on Parliament activity during November 5-9, 2001.

### **3. Law on the Modification and Completion of the Customs Code of the Republic of Moldova.**

**ADEPT comment:** This law brings significant changes in the legal regulation of customs warehouses, specifying that only customs entities and institutions subordinated to the Customs Department could own such warehouses. New provisions have been introduced as far as the set up and operation of the duty-free shops: sale of goods overseen by customs in specially designated areas located in international airports and ports, on the board of planes, at the international customs checkpoints, except for the railroad customs points. The goods are sold in the duty-free shops only to the persons leaving abroad after customs and passport control.

### **4. Law on Insolvency.**

**ADEPT comment:** The law defines the legal framework for the restructuring process of the insolvent enterprises in view of their financial and economic recovery as well as for the insolvency process in view of meeting creditors' claims by liquidation of the assets and distribution of the shares.

## **International relations and foreign affairs**

### **1. Law on the Diplomatic Service.**

**ADEPT comment:** The law regulates the set up and operation of diplomatic missions formed of public officers and individuals who as part of their professional obligations contribute to the promotion of the Republic of Moldova foreign policy. The adoption of the law was accompanied by controversial debates regarding the need for the diplomats to poses languages of international circulation and employment of the diplomats' whose mission expired.

### **2. Law on Ratification of the European Convention on Information regarding the Foreign Law and Additional Protocol to the European Convention on Information regarding the Foreign Law.**

### **3. Law on the Ratification of the European Convention on the Legal Status of Illegitimate Children.**

### **4. Law on the Republic of Moldova on Adhesion to the Convention on the Refugee Status, as well as to the Protocol on the refugee status.**

### **5. Law on the Ratification of the Transit Agreement on the Territory of the Community of Independent States.**

### **6. Law on the Ratification of the Friendship and Cooperation Treaty between the Republic of Moldova and Russian Federation.**

### **7. Law on the Ratification of the Promotion and Protection of Investments Agreement between the Republic of Moldova and Austrian Republic.**

### **8. Law on the Ratification of the Memorandum of Understanding on Logistical Support between the Government of the Republic of Moldova and North-Atlantic Maintenance and Supply Organization (NAMS).**

9. Law on the Ratification of the CIS Agreement on Technical Obstacles in Free Trade.

10. Law on Ratification of Humanitarian Assistance and Technical Cooperation Agreement between the Government of the Republic of Moldova and Switzerland Government.

**In conclusion its worth mentioning that the most important acts adopted by the Parliament during autumn 2001 session refer to the administrative-territorial and public administration reform. Given the importance of the said laws and the fact that they haven't been published yet, they would be the subject of a separate thorough analysis.**